



**Colorado  
Legislative  
Council  
Staff**

**HB16-1181**

**FINAL  
FISCAL NOTE**

**FISCAL IMPACT:**  State  Local  Statutory Public Entity  Conditional  No Fiscal Impact

**Drafting Number:** LLS 16-0596  
**Prime Sponsor(s):** Rep. Buck

**Date:** July 5, 2016  
**Bill Status:** Postponed Indefinitely  
**Fiscal Analyst:** Josh Abram (303-866-3561)

**BILL TOPIC:** LOCAL GOVERNMENT FRACKING BAN LIABLE ROYALTIES

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue	See State Revenue section.	
State Expenditures	See State Expenditures section.	
<b>Appropriation Required:</b> None.		
<b>Future Year Impacts:</b> Ongoing.		

**NOTE:** This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

**Summary of Legislation**

This bill provides for the compensation of a royalty owner when a local ordinance, resolution, or other policy prohibits the practice of hydraulic fracturing to recover oil and gas within a local government's jurisdiction. The local government is liable to the royalty owner for the value of royalties not received due to the prohibition.

**Background**

**Oil and gas production in Colorado.** Colorado has several regions with significant oil and gas production. The most active areas include the Wattenberg Field, centered in Weld County, the Piceance Basin and Rangley Field in Northwestern Colorado, and the Ignacio Blanco in Southern Colorado.

**State lands.** The State Land Board (SLB) in the Department of Natural Resources receives royalty payments from oil and gas production on the state lands it holds and manages. Revenue from mineral interests, primarily oil and gas, account for over 80 percent of SLB revenue in recent fiscal years.

**Local rules.** Cities, towns, and counties may enact certain rules that attempt to restrict hydraulic fracturing. A local rule may regulate oil and gas exploration and recovery, or, in the case of a moratorium, it may suspend local approval of such activities while the issue is studied.

**Royalty values.** Estimates of royalty values are based on numerous assumptions, including consideration of the feasibility of drilling, commodity prices, production rates, and royalty owner contributions to the costs of production. No estimate of royalty values is made in this fiscal note.

## Assumptions

The fiscal note makes the following assumptions:

- A temporary prohibition creates liability for at least the effective duration of the local rule.
- A significant percentage of mineral rights owners affected by a local rule will seek lost royalty payments from the local government.
- Liability for lost royalties will be enforced through the courts, including state courts and municipal courts with original jurisdiction.

## State Revenue

The SLB receives royalty payments for oil and gas production on its lands. The bill will allow the SLB to seek reimbursements for lost royalty revenue should a local government's prohibition of hydraulic fracturing impact this revenue. No significant SLB revenue is affected by current prohibitions in local jurisdictions.

## State Expenditures

Beginning in FY 2016-17, the bill potentially increases workload in trial courts of judicial districts where a local government prohibits hydraulic fracturing. The increase in workload is not expected to require new appropriations. However, if a large number of cases are filed in state court, resources required to handle the increase in caseload will be requested through the annual budget process.

## Local Government Impact

The bill increases expenditures and workload for any local government that prohibits hydraulic fracturing in the future. This increase includes paying the amount of lost royalties as a result of the prohibition and the related legal expenses to adjudicate the case. The workload of municipal courts may also increase in some limited cases. It is unknown if local governments will enact future bans of hydraulic fracturing and this fiscal note makes no estimate of the value of mineral royalties potentially affected.

## Effective Date

The bill was postponed indefinitely by the House State, Veterans, & Military Affairs Committee on February 24, 2016.

**State and Local Government Contacts**

Colorado Counties  
Local Affairs  
Public Health & Environment  
Special District Association

Colorado Municipal League  
Natural Resources  
Public Safety